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APPLICATION OF COMMUNITY WATER SERVICE, INC. AND WALTER J. CARROLL WATER COMPANY, INC. FOR SALE, TRANSFER, OR MERGER OF FACILITIES AND CERTIFICATE RIGHTS IN ELLIS COUNTY

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BEFORE THE STATE OFFICE OF PUBLIC UTILITY REGULATION AND SAFETY COMMISSION
FILING CLERK

OF

(APPLICATION NO. 37981-s)

ADMINISTRATIVE HEARINGS

CITY OF RED OAK, TEXAS, STATEMENT OF ISSUES

Pursuant to the City of Red Oak, Texas, statement of objection and by order of the State Office of Administrative Hearing, the undersigned as legal counsel files the following statement:

I. DESCRIPTION OF CASE

On July 11, 2014, Walter J. Carroll Water Company, Inc. (Applicant), filed an application to purchase facilities and a portion of the CCN No. 10091 currently held by Community Water Service, Inc. in Ellis County, Texas. This area, in which is currently encompassed by the CCN. No. 10091, lies wholly within the corporate limits of the City of Red Oak, Texas. The City of Red Oak, Texas, filed its opposition to the application and requests that such area be within its certified area as being within its corporate limits and to require the water service to be part of the Municipal potable water system.

II. JURISDICTION

The City of Red Oak, Texas, is not aware of any jurisdictional issues and the Commission has jurisdiction and authority pursuant to the Texas Water Code.

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III. LIST OF CONTESTED FACTS AND ISSUES

3A. Factual Issues. It is the position of the City of Red Oak, Texas that the following factual or mixed questions presented for determination:

1. The Community Water Service system in the service area does not have any fire hydrants and cannot support fire hydrants. Larger lines and possibly new pumps must be installed to provide adequate water pressure and water volume. Beckley Pikes residents need to have the same fire protection as other residents on the City of Red Oak water system. Thus, the system is inadequate to support fire suppression.

2. That portions of the Community Water Service distribution lines were not installed at proper depths with adequate cover to provide protection of the water lines, preventing freezing, breakage or tampering and thus, such system is inadequate for a quality control and sanitary protection of the system.

3. The application that Walter J. Carroll Water Company, Inc. submitted to the Public Utility Commission (PUC) states that no repairs, replacements or improvements to the current water system are planned. The City of Red Oak states that improvements to the system and that the Applicant lack the necessary plans to provide safe drinking water to the residents served by this water system.

4. The City of Red Oak states that the Walter J. Carroll Water Company, Inc. does not have adequate financial resources or committed to make plans to make routine repairs and upgrades as necessary. If there is a major system failure, the Walter J. Carroll Water Company, Inc., will be unable to serve water to the area in a timely manner and the expense which will result lack of an operational system.

5. The City of Red Oak is better suited to provide water service to this area if Community Water Service, Inc.

6. The City of Red Oak would like clarification on the descriptive boundaries of the area subject to this proposed transaction. The notification letter received by the City states that the area is generally bounded on the south by W. Red Oak Rd. and on the west by Hillcrest. However, the CCN location map provided with the notification letter shows the boundaries of the subject area to be much closer to Baldwin on the South and Overlook on the west. The location map appears to be much more accurate than the written description because the water system and its customers only extend to Baldwin on the south and Overlook on the west. The narrative description of the boundaries includes areas that are not currently served by Community Water Service, Inc.

3B. Legal Issues. As a result of the preceding, the following legal issues are submitted for resolution:

1. Whether or not the Applicant can adequately provide service within the requested area.

2. The need for additional service including future development of the land area which would include landowners, prospective landowners, within the certificated area.

3. The effect of amending or granting a Certificate of Convenience and Necessity to the Applicant herein as it may affect the sewer treatment and the development within the area.

4. The deed of financial and the age of the current system whether or not the Applicant can adequately provide according to the standard with the Commission, and taking into account, the current and projected density and use of the land area within the City of Red Oak, Texas.

5. The feasibility of obtaining service from the adjacent retail public utility being the City of Red and financial ability of the Applicant to pay for improvements in within the service area including transmission, distribution lines as well water storage pumping at storage capacity and as it relates to providing continuous and adequate service as well as the overall financial debt to equity ratio.

6. The environmental integrity of the current system and the ability of the Applicant to provide adequate environmental integrity whether or not the system would be improved and with the result of the overall lowering of consumer costs within the effected certificated area.

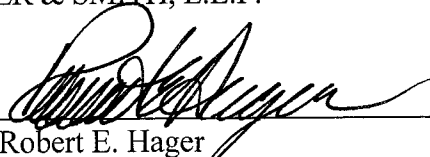
7. The effect on the land to be included in the certificated area as far as future development or within the City of Red Oak, Texas.

IV. CONCLUSION

The City of Red Oak, Texas, being an interested party and that the certificated area is solely within the jurisdictional boundaries of the City of Red Oak, Texas, that pursuant to the orders of the State Office and Administrative Hearings that the Commission will issue its preliminary order on **March 6, 2015**, as a contested case and that the Applicant be allowed to participate in the prehearing conference by telephonic prehearing at **10:00 a.m. on March 12, 2015**.

Respectfully submitted,
NICHOLS, JACKSON, DILLARD,
HAGER & SMITH, L.L.P.

By: _____



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**ATTORNEY FOR THE
CITY OF RED OAK, TEXAS**

CERTIFICATE OF SERVICE

This is to certify that on the 16th day of February, 2015, a true and correct copy of the foregoing document was served on all counsel of record by depositing the same in the U.S. Mail, Postage Prepaid, Certified Mail, and addressed as follows:

Walter J. Carroll
Carroll Water Company, Inc.
513 Winding Creek Trail
Red Oak, TX 75154



ROBERT E. HAGER